

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,

v.

SCHRODER & CO. BANK AG,

Defendant.

Adv. Pro. No. 12-01210 (CGM)

**STIPULATION AND ORDER TO DISMISS CERTAIN
TRANSFERS ALLEGED IN THE COMPLAINT
AND SET BRIEFING SCHEDULE**

Plaintiff Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, and defendant Schroder & Co. Bank AG (“Defendant,” and with the Trustee, the “Parties”), by and through their respective, undersigned counsel, stipulate as follows:

WHEREAS, on March 23, 2012, the Trustee commenced the above-captioned adversary proceeding by filing a complaint (the “Complaint”) against Defendant, to recover subsequent transfers allegedly received from Fairfield Sentry Limited (“Fairfield Sentry”), Fairfield Sigma Limited (“Fairfield Sigma”), Kingate Euro Fund, Ltd. (“Kingate Euro”), and Kingate Global Fund, Ltd. (“Kingate Global”). ECF No. 1;

WHEREAS, on August 6, 2019, the Court entered an Order Pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure approving a settlement agreement (“Settlement Agreement”) by and among the Trustee and Kingate Global and Kingate Euro Fund, Ltd. (“Kingate Euro,” and together with Kingate Global, the “Kingate Funds”). *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. Aug. 6, 2019), ECF No. 417. The Settlement Agreement was a full and final settlement and satisfaction of the Trustee’s claims against the Kingate Funds. *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. July 17, 2019), ECF No. 413-2. The release granted by the Trustee in the Settlement Agreement extended to the Kingate Funds’ shareholders to the extent that any such shareholders, like Defendant, received transfers of money from the Kingate Funds but did not include a release of claims that the Trustee may bring that are unrelated to the Kingate Funds’ investments in or withdrawals from BLMIS. *Id.*; and

WHEREAS, after the filing of the Complaint, the Trustee determined that one transfer from Fairfield Sentry to Defendant, totaling \$27,014, and one transfer from Fairfield Sigma to Defendant, totaling \$3,268, should be dismissed. These transfers total \$30,282 and are identified in the attached Schedule 1 (the “Dismissed Fairfield Subsequent Transfers”).

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties:

1. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss Count Two against Defendant. Specifically, the Trustee's claims to recover subsequent transfers that Defendant allegedly received from Kingate Global, totaling approximately \$1,527,475, are hereby dismissed.

2. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss Count Three against Defendant. Specifically, the Trustee's claims to recover subsequent transfers that Defendant allegedly received from Kingate Euro, totaling approximately \$303,348, are hereby dismissed.

3. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss the Dismissed Fairfield Sentry and Fairfield Sigma Subsequent Transfers identified on Schedule 1. Except as set forth herein, this stipulation and order has no effect on the remaining allegations in Count One of the Complaint, including the remaining Fairfield Sentry and Fairfield Sigma Subsequent Transfers that Defendant allegedly received, which total approximately \$25,116,802, and the Fairfield Sigma Subsequent Transfers, which total approximately \$3,415,930.

4. Defendant shall answer, move, or otherwise respond to the Complaint except as otherwise set forth herein.

5. The deadline for the Defendant to respond to the Complaint shall be March 11, 2022. If Defendant files a motion to dismiss the complaint, such motion shall set forth any and all

grounds for dismissal at the pleading stage. The deadline for the Trustee to respond to the motion shall be May 11, 2022, and the deadline for the Defendant to file a reply shall be June 13, 2022.

6. If Defendant files a motion to dismiss the complaint, then the parties shall request oral argument on the motion at the Court's first available convenience.

[Remainder of page intentionally left blank]

7. This stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this stipulation shall be deemed an original.

Dated: February 17, 2022
New York, New York

By: /s/ David J. Sheehan
BAKER & HOSTETLER LLP
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Robertson D. Beckerlegge
Email: rbeckerlegge@bakerlaw.com
Eric R. Fish
Email: efish@bakerlaw.com
Michelle R. Usitalo
Email: musitalo@bakerlaw.com
Robyn M. Feldstein
Email: rfeldstein@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Liquidation of Bernard L.
Madoff Investment Securities LLC and the
Chapter 7 Estate of Bernard L. Madoff*

SO ORDERED.

By: /s/ Martin J. Crisp
ROPES & GRAY
1211 Avenue of the Americas
New York, New York 10036
Telephone: (212) 596-9193
Martin J. Crisp
Email: martin.crisp@ropesgray.com
Robert S. Fischler
Email: robert.fischler@ropesgray.com

*Attorneys for Defendant Schroder & Co.
Bank AG*

**Dated: February 22, 2022
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**